

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

ADRIANO ALAIN CORTEZ  
Plaintiff,

v.

DANIEL MARTIN, et al,  
Defendants

No. 1:22-CV-00051-MSM-PAS

ORDER

Mary S. McElroy, United States District Judge.

By previous Order, entered on March 10, 2023, the Court granted in part and denied in part the defendants’ Motion to Dismiss, leaving pending only the plaintiff’s complaint that the defendants acted unconstitutionally in opening legal mail in his absence. (ECF No. 24.) After that Order was entered, the defendants filed a second, amended Motion to Dismiss, alleging that Mr. Cortez cannot invoke 42 U.S.C. § 1983 because he is in the custody of federal officials at the Donald W. Wyatt Detention Center Facility and the conduct of officials there is thus not “state action.” The Court then appointed an attorney to represent Mr. Cortez.

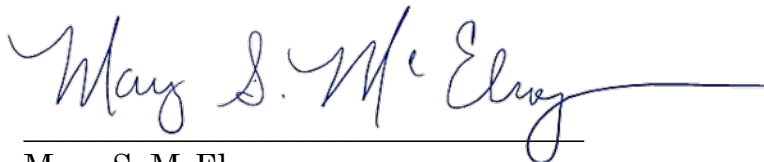
The Wyatt facility is under the jurisdiction of the Central Falls Detention Facility Corporation, its owner and operator. *Avcorr Management, LLC v. Central Falls Detention Facility Corporation*, 41 A.3d 1007, 1008 (R.I. 2012). It was

authorized by state statute to enter into a contract with the United States marshal's service. R.I.G.L. (1956) § 45-54-1. Whether the conduct of Wyatt correctional employees is state action or not has been answered in inconsistent ways by two earlier decisions of this Court. *Compare Glennie v. Garland*, No. C.A. 21-341JJM, 2023 WL 2265247, at \*16 (D.R.I. Feb. 28, 2023) (not state action) *with Lacedra v. Donald W. Wyatt Det. Facility*, 334 F. Supp. 141, 140-41 (D.R.I. 2004) (state action).

The Court finds that the resolution of this issue depends in some measure on facts which cannot be determined on the record as it currently exists. No contract with federal officials is in evidence. The record does not reveal the extent to which operations are controlled by the Central Falls corporation, by the Central Falls City Council, or the relationship between the facility's Board of Directors (which is appointed by the Mayor, *see* <http://www.wyattdetention.com/About-Us/Administration/Board-of-Directors>) and the governing authorities at the institution. It also does not reveal anything about the employment status of the correctional officers and administration at Wyatt: are they federal employees or state employees and to whom are they accountable?

The Amended Motion to Dismiss (ECF No. 36) is DENIED.

IT IS SO ORDERED:

A handwritten signature in blue ink, reading "Mary S. McElroy", with a long horizontal flourish extending to the right.

Mary S. McElroy,  
United States District Judge

Date: February 13, 2024

